

SECOND REGULAR SESSION

HOUSE BILL NO. 2100

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES (117).

6321L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 144.010, RSMo, and to enact in lieu thereof one new section relating to sales and use tax.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 144.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.010, to read as follows:

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to 144.525 have the meanings ascribed to them in this section, except when the context indicates a different meaning:

(1) "Admission" includes seats and tables, reserved or otherwise, and other similar accommodations and charges made therefor and amount paid for admission, exclusive of any admission tax imposed by the federal government or by sections 144.010 to 144.525;

(2) "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of sections 144.010 to 144.525. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business, does not constitute engaging in business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of receipts from the sale of tangible personal property by persons which property is sold in the course of the partial or complete liquidation of a household, farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall not be construed to make any sale of property which is exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (3) "Captive wildlife", includes but is not limited to exotic partridges, gray partridge,
19 northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer,
20 captive elk, and captive furbearers held under permit issued by the Missouri department of
21 conservation for hunting purposes. The provisions of this subdivision shall not apply to sales
22 tax on a harvested animal;

23 (4) "Gross receipts", except as provided in section 144.012, means the total amount of
24 the sale price of the sales at retail including any services other than charges incident to the
25 extension of credit that are a part of such sales made by the businesses herein referred to, capable
26 of being valued in money, whether received in money or otherwise; except that, the term "gross
27 receipts" shall not include the sale price of property returned by customers when the full sale
28 price thereof is refunded either in cash or by credit. In determining any tax due under sections
29 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be
30 specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the
31 sale price above mentioned shall be deemed to be the amount received. It shall also include the
32 lease or rental consideration where the right to continuous possession or use of any article of
33 tangible personal property is granted under a lease or contract and such transfer of possession
34 would be taxable if outright sale were made and, in such cases, the same shall be taxable as if
35 outright sale were made and considered as a sale of such article, and the tax shall be computed
36 and paid by the lessee upon the rentals paid;

37 (5) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to,
38 ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk
39 documented as obtained from a legal source and not from the wild, goats, horses, other equine,
40 or rabbits raised in confinement for human consumption;

41 (6) "Motor vehicle leasing company" shall be a company obtaining a permit from the
42 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or
43 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to
44 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section
45 144.070, as hereinafter provided;

46 (7) "Person" includes any individual, firm, copartnership, joint adventure, association,
47 corporation, municipal or private, and whether organized for profit or not, state, county, political
48 subdivision, state department, commission, board, bureau or agency, except the state
49 transportation department, estate, trust, business trust, receiver or trustee appointed by the state
50 or federal court, syndicate, or any other group or combination acting as a unit, and the plural as
51 well as the singular number;

52 (8) "Purchaser" means a person who purchases tangible personal property or to whom
53 are rendered services, receipts from which are taxable under sections 144.010 to 144.525;

54 (9) "Research or experimentation activities" are the development of an experimental or
55 pilot model, plant process, formula, invention or similar property, and the improvement of
56 existing property of such type. Research or experimentation activities do not include activities
57 such as ordinary testing or inspection of materials or products for quality control, efficiency
58 surveys, advertising promotions or research in connection with literary, historical or similar
59 projects;

60 (10) "Sale" or "sales" includes installment and credit sales, and the exchange of
61 properties as well as the sale thereof for money, every closed transaction constituting a sale, and
62 means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means
63 whatsoever, of tangible personal property for valuable consideration and the rendering,
64 furnishing or selling for a valuable consideration any of the substances, things and services
65 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

66 (11) "Sale at retail" means any transfer made by any person engaged in business as
67 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use
68 or consumption and not for resale in any form as tangible personal property, for a valuable
69 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed
70 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,
71 optometrists and veterinarians and used in the practice of their professions shall be deemed to
72 be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,
73 computer output or microfilm or microfiche and computer-assisted photo compositions to a
74 purchaser to enable the purchaser to obtain for his or her own use the desired information
75 contained in such computer printouts, computer output on microfilm or microfiche and
76 computer-assisted photo compositions shall be considered as the sale of a service and not as the
77 sale of tangible personal property. Where necessary to conform to the context of sections
78 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to
79 embrace:

80 (a) Sales of admission tickets, cash admissions, charges and fees to or in places of
81 amusement, entertainment and recreation, games and athletic events;

82 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic,
83 commercial or industrial consumers;

84 (c) Sales of local and long distance telecommunications service to telecommunications
85 subscribers and to others through equipment of telecommunications subscribers for the
86 transmission of messages and conversations, and the sale, rental or leasing of all equipment or
87 services pertaining or incidental thereto;

88 (d) Sales of service for transmission of messages by telegraph companies;

89 (e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern,
90 inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in
91 which rooms, meals or drinks are regularly served to the public;

92 (f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express
93 car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and
94 railroad safety of the department of economic development of Missouri, engaged in the
95 transportation of persons for hire;

96 **(g) Registration with the director of revenue of motor vehicles, trailers, boats and**
97 **outboard motors, regardless of whether the sale took place in this state;**

98 (12) "Seller" means a person selling or furnishing tangible personal property or rendering
99 services, on the receipts from which a tax is imposed pursuant to section 144.020;

100 (13) The noun "tax" means either the tax payable by the purchaser of a commodity or
101 service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities
102 or services during the period for which he or she is required to report his or her collections, as
103 the context may require;

104 (14) "Telecommunications service", for the purpose of this chapter, the transmission of
105 information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar
106 means. As used in this definition, "information" means knowledge or intelligence represented
107 by any form of writing, signs, signals, pictures, sounds, or any other symbols.
108 Telecommunications service does not include the following if such services are separately stated
109 on the customer's bill or on records of the seller maintained in the ordinary course of business:

110 (a) Access to the internet, access to interactive computer services or electronic publishing
111 services, except the amount paid for the telecommunications service used to provide such access;

112 (b) Answering services and one-way paging services;

113 (c) Private mobile radio services which are not two-way commercial mobile radio
114 services such as wireless telephone, personal communications services or enhanced specialized
115 mobile radio services as defined pursuant to federal law; or

116 (d) Cable or satellite television or music services; and

117 (15) "Product which is intended to be sold ultimately for final use or consumption"
118 means tangible personal property, or any service that is subject to state or local sales or use taxes,
119 or any tax that is substantially equivalent thereto, in this state or any other state.

120 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other
121 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections
122 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning
123 given it in section 700.010.

124 3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".